

APPEAL NO. 021227
FILED JULY 8, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 25, 2002. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury and did not have disability. The claimant appeals these determinations, and also argues that the hearing officer erred in excluding certain evidence. The respondent (carrier) responds that the decision should be affirmed.

DECISION

We affirm the hearing officer's decision and order.

The hearing officer did not abuse her discretion in excluding certain evidence that had not been exchanged not later than 15 days after the benefit review conference, in accordance with Tex. W. C. Comm'n, 28 TEX. ADMIN. CODE §142.13(c) (Rule 142.13(c)). The claimant did not articulate any good cause except for lack of surprise on the carrier's part. Lack of surprise is not a basis for a good cause finding. Texas Workers' Compensation Commission Appeal No. 92165, decided June 5, 1992.

On the merits, the claimant quarrels with the manner in which the hearing officer gave weight and credibility to the evidence. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). In this case, the hearing officer obviously viewed the long period of time that the claimant worked after her accident, as well as the delay in seeking medical treatment, as being entitled to more weight than medical records based upon the history that the claimant gave the doctors. An appeals-level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied); American Motorists Insurance Co. v. Volentine, 867 S.W.2d 170 (Tex. App.-Beaumont 1993, no writ). The record in this case presented conflicting evidence for the hearing officer to resolve. In considering all the evidence in the record, we cannot agree that the findings of the hearing officer are so against the great weight and preponderance of the evidence as to be manifestly wrong and unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We therefore affirm the decision and order.

The true corporate name of the insurance carrier is **BANKERS STANDARD INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MARCUS CHARLES MERRITT
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 200
IRVING, TEXAS 75063.**

Susan M. Kelley
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Thomas A. Knapp
Appeals Judge